

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5556 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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NARMADABEN JINABHAI TANK

Versus

STATE OF GUJARAT (NOTICE TO BE SERVED THROUGH THE SECRETARY,

Appearance:

MR PM THAKKAR for Petitioner
MRs Manisha Lavkumar, AGP, as instructed by
M/S MG DOSHIT & CO
for Respondent No. 1
MR JD AJMERA for Respondent No. 2
RULE SERVED for Respondent No. 3

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 24/06/1999

ORAL JUDGEMENT

In view of the fact that the petitioner has substantially been granted by the respondents the reliefs which the petitioner has prayed for in this petition, it is not necessary to set out all the facts. Suffice it to state that the petitioner was appointed as Head Mistress of the Kindergarten by respondent no.3, Sarpanch, Dhari Gram Panchayat. In September 1983 the petitioner filed the present petition for following reliefs:-

- (A) For declaring the action of the respondents withholding the pensionary benefits of the petitioner as illegal;
- (B) For a declaration that the petitioner is entitled to the retirement benefits as are available to the other panchayat employees;
- (C) For a direction to the respondents to pay to the petitioner all the retirement benefits to which she was entitled.

2 At the hearing of this petition, Mrs Manisha Lavkumar, learned AGP, and Mr J.D.Ajmera, learned advocate for the respondents nos.2 and 3, have pointed out from the affidavit dated 23rd June 1999, filed by Mr Niranjan J Joshi, Deputy Secretary to the Rural Housing and Rural Development Department that the benefits of pension and gratuity have been extended to the petitioner. A reference is also made therein to the letter dated 18th June 1999 from the office of the Amreli District Panchayat to the State Government giving details about the amount of pension and gratuity and C.P.F. contribution.

Mr Ajmera has also produced a copy of the letter dated 18th June 1999 from Sarpanch, Dhari Gram Panchayat, informing Amreli District Panchayat that apart from the amounts mentioned in the letter dated 18th June 1999 from the DDO, Amreli, to the State Government paid for the period up to 31st December 1988, further amounts are paid to the petitioner for the period from 1.1.1989 to 31.1.1997 and that after June 1997 pension is being paid by Jetpur Sub-Treasury. A copy of the aforesaid letter is taken on record.

3 It is required to be noted that while admitting the petition on 28th January 1996 this Court had passed interim order directing the respondents to deposit 75% of the amount, which according to them, would be payable to

the petitioner by way of post retirement benefits. Accordingly, certain amounts were deposited in this Court as mentioned in the letter dated 18.6.1999 from the DDO, Amreli, to the State Government.

In view of the stand adopted by the respondents at the hearing of this petition that the petitioner is to be paid all the benefits of the pension and gratuity, the balance amount of 25% (if not paid to the petitioner sofar) shall be paid to the petitioner within 2 months from the date of receipt of the certified copy of this order. The amount of pension being paid to the petitioner shall continue to be paid to the petitioner as and when the same falls due.

4 It is clarified that this Court is not required to adjudicate issues involved in this petition as the respondents themselves have started paying pension to the petitioner and, therefore, the aforesaid directions may not be treated as pronouncement on any issue regarding the liability of the respondents to pay pension to the employees of respondent no.3 - Dhari Gram Panchayat.

5 Subject to the aforesaid directions and clarification, this petition stands disposed of with the liberty to either of the parties to approach this Court in case of difficulty.

Rule is made absolute to the aforesaid extent with no order as to costs.

24.6.1999 (M.S. SHAH, J.)
(mohd)